

## INTRADEPARTMENTAL CORRESPONDENCE

April 26, 2018  
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**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING FID NO. 029-17

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 029-17. A Use of Force Review Board (UOFRB) was convened on this matter on March 21, 2018. In this case, the recommended findings were not unanimous with minority opinions rendered regarding the Lethal Use of Force findings for Officers J. Escamilla, Serial No. 35680, B. Lee, Serial No. 37742, G. Martin, Serial No. 34477, C. Chu, Serial No. 33547, J. Flores, Serial No. 32169, and J. Fritz, Serial No. 33555.

I have carefully weighed each opinion, considered the case in its entirety and adopted the recommendations of the majority opinion. I hereby submit my findings in accordance with Police Commission policy.

### SUMMARY<sup>1</sup>

On May 8, 2017, at approximately 0857 hours, Foothill Patrol Division units responded to a radio call of a *459 Hot Prowl* at 11360 Alethea Drive. Upon arrival, the officers met with the Person Reporting (PR), N. Nemer, who told them that she woke up and discovered an unknown male, later identified as A. Soderberg, inside of her residence. She then fled the residence and called 911.

After speaking with Nemer further, the officers discovered that Nemer and her roommate had a handgun, rifle, and shotgun, along with ammunition, inside the residence. The officers observed the handgun through the front bedroom window, laying on a dresser and were advised by Nemer that the handgun was not left in that location prior to her exiting the residence.

The officers ordered Soderberg to exit the residence, but he did not comply. It was determined that Soderberg met the criteria for a barricaded suspect, because he was inside the residence, he was refusing to comply and had access to firearms and ammunition. Metropolitan Division, Special Weapons and Tactics (SWAT), was notified and advised they would respond.

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<sup>1</sup> The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

Lieutenant R. Lopez, Serial No. 25900, and Sergeant S. Weaver, Serial No. 30342, along with Officers C. Bodell, Serial No. 34688, R. Gallegos, Serial No. 30619, J. Goosby, Serial No. 35124, J. Grasso, Serial No. 32275, D. Keortge, Serial No. 30896, M. Messenger, Serial No. 30403, J. Pultz, Serial No. 34942, M. Rios, Serial No. 32123, A. Samuelson, Serial No. 30676, Lee, Martin, and Escamilla, Metropolitan Division, SWAT, responded.

Additionally, Sergeant J. McDonald, Serial No. 27620, along with Officers Chu, Flores, Fritz, and M. Peters, Serial No. 30256, Metropolitan Division, K-9 Platoon, also responded.

**Note:** Additional Metropolitan Division personnel responded to the scene. However, the UOFRB determined that they were not significantly involved in the incident and will not receive formal findings.

Metropolitan Division personnel arrived and relieved all Foothill Patrol Division personnel from their positions and replaced them with their personnel. Due to Soderberg being barricaded with access to firearms and ammunition, all Metropolitan Division personnel assumed their positions at the location and drew/exhibited their respective weapon systems (Drawing/Exhibiting).

Commander P. Zarcone, Serial No. 26721, Acting Commanding Officer, Counter Terrorism and Special Operations Bureau (CTSOB), and Captain E. Eskridge, Serial No. 24585, Commanding Officer, Foothill Area, responded to the scene. Upon their arrival Captain Eskridge assumed the role of Incident Commander (IC), while Commander Zarcone acted in an advisory capacity, but exercised command and control responsibility with respect to the deployment of APS.

According to Lieutenant Lopez, he was familiar with Foothill Division and knew that the location would be a *challenging position to contain* due to Soderberg being in an *elevated position at the end of a cul-de-sac* in hilly terrain. He was especially concerned that Soderberg may decide to load the assault rifle and enter the terrain.

Due to these concerns, Lieutenant Lopez contacted Captain R. Stabile, Serial No. 26260, Assistant Commanding Officer, Metropolitan Division, and requested permission to stage an airship equipped for Aerial Platform Shooting (APS). According to Lieutenant Lopez, Captain Stabile *ran it up the chain of command* and then advised him that APS was good to go.

According to Commander Zarcone, Captain Stabile notified him that SWAT was requesting APS for the incident. With Soderberg having *access to high-powered weapons*, in a *tactical position of advantage* due to *his elevation*, with access to *numerous ravines to escape into the surrounding community*, he approved APS to stage in the *vicinity of the incident*.

According to Commander Zarcone, he believed APS was the *safest means to contain* Soderberg *and to engage him if he began shooting at officers*.

According to Lieutenant Lopez, once APS was approved to stage, he ~~contacted~~ Sergeant Weaver to *identify two deployable snipers* to meet the APS helicopter at a landing zone to be determined

by Air Support Division (ASD). It was determined that Officers Messenger and Gallegos would be those snipers and they were directed to meet the APS helicopter.

Aerial Platform Shooting Pilots, Officer S. Malachi, Serial No. 30958, and D. Swanson, Serial No. 35141, ASD, were assigned to fly the APS helicopter, designated as Sniper-1. Officer Swanson was piloting the airship, while Officer Malachi was acting as his Tactical Flight Officer (TFO).

According to both pilots, they determined that the best landing zone to meet Officers Messenger and Gallegos was Whiteman Airport. So, they responded to that location and Officers Gallegos and Messenger secured themselves onto the APS helicopter.

**Note:** Sniper-1's configuration consisted of benches attached to the skids on the outside of the helicopter. Both officers were secured by a harness to the left side of the airship. The doors to the airship were closed and communication between the officers and the pilots was line-of-sight, hand signals, and radio. The officers were attached to the left side of the airship due to the airship's standard procedures of orbiting in a counterclockwise direction over the target location.

According to Lieutenant Lopez, upon his arrival at scene, he observed the terrain, and believed Soderberg *had full advantage and a 360 view* of the officers *down below*. He also did not want Soderberg to escape into *the woods* because it would result in a lengthy *manhunt*. Consequently, he approached Captain Eskridge, explained *the APS option was actually hovering containment*, and that if Soderberg *engaged* the officers, then *APS can respond accordingly*.

According to Captain Eskridge, the need for APS was explained to him by Lieutenant Lopez. He concurred and approved of its deployment.

According to Sergeant Weaver, as he was setting up containment, he *knew* that Lieutenant Lopez had received approval to *get our APS launched off*. He wanted to use APS as *overwatch for side two containment*, so he used his radio and requested APS to assist with containment.

According to Lieutenant Lopez, he was *coordinating* with Sergeant Weaver and knew that the APS was *staged* and was *ready* for the *next phase*, which is *deployment*. Since he had officers *moving around* to establish containment, he wanted to *deploy* APS for *overwatch*. He discussed *introducing the tactic* with Captain Eskridge and Commander Zarcone, who had arrived at scene. Commander Zarcone *looked at the terrain* and gave him authorization. He then *got on the radio* and *deployed APS*.

According to Commander Zarcone, he believed Soderberg was *in a position where it would be very dangerous for anybody to try to contain or engage him on foot*. The APS provided the *ability to control* the terrain from the air, and it was *appropriate*. It was *essential* to utilize APS to prevent Soderberg from *getting into the surrounding community*, so he and Captain Eskridge gave Lieutenant Lopez approval to deploy APS.

According to Officer Swanson, the APS was staged at the Little Tujunga Baseball Fields after picking up Officers Messenger and Gallegos at Whiteman Airport. They *sat at flight idle*, to conserve fuel, while they waited for the direction to launch. Once they received the direction to launch, he piloted the airship over the target location. They orbited over the location as *overwatch* until *fuel became an issue*. So, he suggested that they land to conserve fuel until they were *needed*, he then landed the airship at a *nearby little pad he found*.

According to Lieutenant Lopez, the APS was orbiting in the *overwatch position* which is at a *higher vantage point*, but could *transition into engagement in a split second*. Simultaneously, SWAT personnel on the ground were giving Soderberg commands to exit the location without success. In an effort to *de-escalate* the situation the Crisis Negotiation Team (CNT) then began to *introduce negotiations*.

According to Lieutenant Lopez, he then received an update from *the pilot* that APS has *less than two hours* of fuel. He determined SWAT had *established containment as best as possible* at the location and directed the APS to land to conserve fuel.

According to Sergeant Weaver, at the time that APS landed, SWAT had the residence contained but not to *our standards*. He did not have any other options to further contain the residence. He was positioned behind a Bearcat which had been parked on side one of the residence. As SWAT personnel were preparing a crisis negotiation plan, he observed Soderberg attempting to exit out a window on side four of the residence. He then used the *bullhorn* to give him commands to exit the residence, as well as provided him with a use of force warning at this time (Debriefing Point No. 1).

Meanwhile, the Crisis Negotiation Team had been advised that Nemer left a cellular telephone inside the residence. To establish communication with Soderberg, in an attempt to resolve the situation peacefully, a member of the CNT called the cellular telephone, hoping that Soderberg would answer. Additionally, an officer utilized a bullhorn and directed Soderberg to answer the cellular telephone when it rang. However, Soderberg never answered the phone and the attempt to establish communication with Soderberg was unsuccessful.

According to Sergeant Weaver, he could hear Soderberg attempting to *speak* to the officers but could not hear what he was saying. An *ICOR* robot was deployed to the window where Soderberg was observed attempting to exit. The robot was equipped with *speakers*, giving the officers the ability to communicate with him.

According to Officer Grasso, she was directed to operate the robot. She *positioned* the robot at the window, but could not see inside due to a *glare* on the camera. As Soderberg was being given commands to exit the residence, she heard a *single shot fired* from *inside* the residence. She is certified as a crisis negotiator and began using the robot's headset to communicate with Soderberg.

She asked him if he was *okay*, and *within an instant* she heard a *second gunshot*. Soderberg then yelled, "*Fuck you, bitch, I'll put a bullet in your head.*" She then advised the officers around her

of Soderberg's statement. She then attempted to communicate with Soderberg again via the robot a second time and directed him to *put down the gun and come out right now*. She then heard *multiple shots* and Soderberg stated, *fuck you, I'll kill all those SWAT officers that are out there*.

According to Sergeant Weaver, after hearing the shots inside of the residence, they implemented a plan to introduce tear gas into the residence on side one. After approximately *five minutes* of *continuously* deploying tear gas into the residence, he heard a radio broadcast that Soderberg was outside the residence on side two, with a *gun in hand* (Debriefing Point No. 2).

**Note:** According to Captain Eskridge, he was advised of and approved the plan to introduce tear gas.

According to Officer Goosby, he heard a broadcast that Soderberg was on side two walking toward side one with a *gun*. He was assigned as a cover officer on side one and was using the Bearcat as cover. He directed his attention to the one-two corner of the residence and observed Soderberg turn *the corner*. He then observed that Soderberg was holding a *blue steel handgun in his right hand*, and was facing him with *his hand extending out*.

According to Officer Goosby, to *prevent serious bodily injury* to himself and the other officers, he fired *two to three rounds* from his rifle at Soderberg. Soderberg then stepped back, out of his view. He then *moved slightly to his right* and observed that Soderberg was *doing the same thing and started to fire*. Soderberg then fired *at least one round* at him. He *returned fire* and Soderberg stepped *back out of view* (Lethal Use of Force).

**Note:** The investigation revealed that no casings were located in the area that Officer Goosby described the suspect firing from. Additionally, Officer Goosby struck the Bearcat with gunfire during the OIS (Additional Tactical Debrief Topics – Situational Awareness).

According to Sergeant Weaver, he observed Officer Goosby *engage* the suspect and then *trying to get that angle on the suspect*. As Officer Goosby adjusted his position, *he shot the armor*. He asked Officer Goosby if he thought he *hit* the suspect. Officer Goosby advised him that he was *unsure* and *had a very small piece of him*.

According to Officers Pultz and Rios, they were positioned in a detached garage at the one-two corner of the residence, covering side two of the residence. While at that position they observed Soderberg exit on side two at the kitchen door and then walk toward side one via a scout robot that had been positioned with a view of the outside kitchen door. They observed Soderberg holding a handgun in his right hand as he approached the one-two corner. They then lost sight of Soderberg and heard gunshots from side one of the residence. They then observed Soderberg run back to the kitchen door, take a *braced kneel* position, fire at the *airship* and then go back inside the residence.

According to Officer Gallegos, the APS was staged at a little league baseball field waiting for direction to launch. He then heard *SWAT personnel* broadcast that they observed Soderberg at



*the door with a gun in his hand.* The APS was directed to launch, so they flew to the residence, and began orbiting. He did not observe *anything obvious at that time*, but heard a broadcast that Soderberg was observed *shooting at the air unit*. He never observed Soderberg. The pilot continued to orbit, and then landed again to conserve fuel after Soderberg went back inside the residence.

According to Officer Pultz, after Soderberg went back inside the residence, additional tear gas was deployed. He was advised that Soderberg was observed via the scout robot, exiting the kitchen door on side two of the residence with *something in his right hand*. He had his gas mask on and was viewing through *the haze of the gas* when he observed Soderberg *step into view*.

He told Soderberg, *Hey, let me see your hands*. Soderberg turned towards him and Officer Rios' direction. Soderberg's feet were *facing towards side three*, with his upper body turning towards Officer Pultz, *with his arm extended out with a dark object in his right hand* that he believed was a *gun*.

According to Officer Pultz, he *believed* that Soderberg was *going to engage* himself and Officer Rios. *In fear for his life*, he fired *two rounds* from his rifle at Soderberg. Soderberg then went *down behind* some patio furniture and out of his view (Lethal Use of Force).

According to Officer Rios, he was advised Soderberg was *running out* of the residence, *holding his waistband on the right with a dark object*. Soderberg *ran out into the middle of the courtyard* by some furniture on side two of the residence and came into his view.

He observed Soderberg *turn to his right* toward him and Officer Pultz. *It appeared that he was holding a dark object in his right hand*. Believing that Soderberg was armed, he fired *several rounds* from his rifle at Soderberg. Soderberg then fell on the ground and hid behind a *couch and the wall*, where he lost sight of him (Lethal Use of Force).

Simultaneously to Officers Pultz and Rios' OIS, Officers Gallegos and Messenger, who were assigned to the APS, were overhead.

According to Officer Gallegos, he heard a broadcast that Soderberg was *exiting* the residence with a *gun in his hand*. The APS was only *a hundred yards away*, launched again and orbited over the residence. During the *second* orbit around the residence, he observed Soderberg appear from under *the trees* with a *gun in his right hand*.

Soderberg was *moving with some purpose* from side two toward side ~~three~~ of the residence and he believed that he was *trying to maneuver* to shoot at the officers that were positioned on side three. At the same time, Soderberg was looking toward the APS with *the pistol in his right hand*. Having heard a previous broadcast that Soderberg had fired at the *helicopter*, he fired his rifle at Soderberg (Lethal Use of Force).

According to Officer Gallegos, due to the APS moving, he lost sight of Soderberg. He stopped firing, and the APS *came back on a tighter rotation* and he was *looking almost straight down*.

He observed Soderberg *sitting down* in an *under construction* possible *garage area* without a door. Soderberg raised his *right hand* with a *gun, aiming up at* the APS. He then fired his rifle at Soderberg again (Lethal Use of Force).

According to Officer Gallegos, he lost sight of Soderberg and stopped firing. As the APS came back around, *the pilot* advised them that he observed Soderberg crawl into the *makeshift under construction garage*. However, he did not observe Soderberg again after his second OIS.

According to Officer Messenger, he observed Soderberg *running* from side two towards side three with *something dark in his hand*, which he believed to be a *handgun*. Soderberg *started to come up on target* and he heard Officer Gallegos fire *five to seven rounds*. Soderberg then went down to the ground near a *cut out doorway* at the residence.

As the pilot continued *to round in that orbit*, he observed Soderberg *seated near that open doorway* looking toward the helicopter with his *hand down to his sides*. Soderberg then *reached behind him* and *appeared* to have *something dark in his hand*. As Soderberg's arm *started to come up*, he *fired one round* from his rifle at Soderberg in *immediate defense of his life, as well as those on the aircraft*. As they continued to orbiting, he lost sight of Soderberg (Lethal Use of Force).

According to Sergeant Weaver, after Soderberg entered the *unfinished construction* on side two of the residence, a tactical plan was formulated to deploy a scout robot to that location to observe his movements. He then re-deployed to the detached garage located at the one-two corner of the residence, to view the monitor for the robot. Soderberg was initially *sitting up* in the room, but when he viewed Soderberg via the robot, he observed that he was *in a prone position laying on his left side*.

Soderberg had his *right hand out* with his *left hand up underneath him*. Observing some blood, it appeared that he had *been shot*. Sergeant Weaver directed the robot operator to *bump* Soderberg to *get a reaction* from him. Soderberg *blinked, twitched his lower extremities*, and *picked up his right leg and bent his knee*. It appeared that Soderberg was still able to maneuver okay and he was *concerned* that he could not *see his left hand*.

According to Sergeant Weaver, due to Soderberg previously shooting at officers and the *airship*, he believed it was unsafe to approach him. He formulated a tactical plan to deploy a stinger grenade and obtained approval from Lieutenant Lopez as well as the IC. He then directed a *team to move up* to Soderberg's location, using a ballistic shield for cover.

According to Officer Rios, the team *with the shield, with lethal cover, and less lethal cover* moved forward and he deployed a *stinger grenade* to *see if Soderberg can get up or move*. The team then *walked back to cover* (Less-Lethal Use of Force).

According to Sergeant Weaver, he observed Soderberg via the robot while Officer Rios deployed the stinger grenade. He observed that Soderberg *shook off the stinger grenade, moved his hands*

*up towards his face, and continued to lay there. He observed Soderberg was still alive and possibly playing possum.*

Therefore, he developed an additional tactical plan. He directed a team to enter the residence through the kitchen door on side two. They deployed to the kitchen window, which overlooked Soderberg's location. The plan was to *break out that window, throw a second stinger grenade on him, and deploy hot gas* into his location.

According to Sergeant Weaver, contemporaneous to this plan being put into place, a second APS, Sniper-2, had arrived to relieve Sniper-1. Due to the officers being inside the residence, Sergeant Weaver was *concerned with crossfire*. Thus, he advised Sniper-2 that their *rules of engagement were not to engage and be eyes and ears only*.

According to Officer Samuelson, a tactical plan was formulated to *break out the window, deploy a stingball grenade, and hot gas* into Soderberg's location. He entered the residence and was assigned to deploy the stinger grenade. Officer Grasso attempted to break the window by *firing a 40-millimeter through the window*. The 40-millimeter projectile went through the window, but did not make an opening large enough to deploy the stinger grenade through.

Officer Corbett then *threw a cast iron skillet lid* through the window, causing the window to break enough to deploy the sting grenade and hot gas. He then deployed the sting grenade, while Officer Rios deployed the hot gas through the window (Less-Lethal Use of Force).

According to Sergeant Weaver, after the sting grenade and hot gas were deployed, he observed, via the robot, that Soderberg *got in more of a fetal position* and used his hands to cover his face. He *shook off* the sting grenade, but after the hot gas *went off* he sat up and *put his hands over his face to protect himself from the gas*.

Soderberg then *moved over to another corner*, stood up and then exited the room. He heard an *engagement*, which he believed to be coming from Officers Keortge and Bodell since they were assigned as *lethal coverage for that situation*. He then heard a broadcast that Soderberg was now *over the fence and down the ravine*.

According to Officer Keortge, he was assigned as a lethal cover officer with Officer Bodell in the *breezeway* of the detached garage located at the one-two corner of the residence. After the sting grenade and hot gas were deployed through the window of the residence, Soderberg *came out* onto the *sidewalk* and *looked in his direction*.

He observed that Soderberg had a *tight fist with his right hand* and put his left hand down on the *concrete*. Soderberg then *rolled* toward him and Officer Bodell. He then observed *the barrel of a gun* and *fired one round* from his rifle at Soderberg. He believed he *struck* Soderberg with the round, and then observed Soderberg *roll himself over the edge onto the hillside* out of his view (Lethal Use of Force).



According to Officer Bodell, after the *stinger* grenade and hot gas were deployed, he observed Soderberg *jump out of the opening to the covered patio area*. Soderberg landed with his *right arm underneath his shirt and his waistband, as if he was holding a pistol*. Soderberg was on his knees with his left hand on the ground.

Soderberg then *turned towards* him and Officer Keortge, *brought his hand from underneath his waistband* and was *holding a dark object in a pistol grip*. Soderberg then *turned his left shoulder toward* him and Officer Keortge. *Fearing for his life and the lives of his partners*, he fired two rounds from his rifle at Soderberg. He believed that his rounds struck Soderberg, and observed Soderberg *roll over to his back with objects still in his hand*. Soderberg then *rolled off the edge, down to the hillside* out of his sight (Lethal Use of Force).

According to Sergeant Weaver, after Soderberg went into the ravine, he observed that his team was *getting ready to push forward* but directed them to *hold* to avoid crossfire. He then heard a broadcast that Soderberg was *20 or 30 yards* down in the ravine. He then determined there was *not going to be* crossfire because *he was down far enough* and directed his team to *began moving* toward the ravine. As they approached the *threshold of the garage*, he heard *other engagements*.

According to Officer Fritz, he was assigned as lethal cover on Big Tujunga Road at the bottom of the ravine, along with Officers Flores and Chu. After Soderberg went into the ravine, he observed him sliding down but *looking back at the officers that were above him and feared that another engagement* was going to occur because he observed what he believed to be a *gun in his hand*.

He was concerned that if Soderberg got further down into the ravine, they may lose sight of him and he believed Soderberg *posed an immediate threat to anybody* who would have to *apprehend him*, or that he could *escape and get back into the community and put other people in danger*.

According to Officer Fritz, he then *fired one round* from his rifle at Soderberg and reassessed. He observed that Soderberg had *switched his stance* and then observed Soderberg's *hand come around* and it still looked like *he had something in his hand*, which he believed to be a *firearm*. He then *fired a second round* from his rifle at Soderberg (Lethal Use of Force).

According to Officer Fritz, he observed Soderberg continue down into the ravine, approaching *thick shrubbery* and was about to *lose visual* of Soderberg. He believed ~~that~~ Soderberg was *still a threat to the officers above and the officers down below if he got into that shrubbery*. He then *fired a third round* from his rifle at Soderberg. Soderberg then *tumbled and came to rest in some shrubbery*. At that point, he could no longer observe any *movement from* Soderberg (Lethal Use of Force).

According to Officer Flores, he observed Soderberg *jump off the wall into* the ravine. His *right hand was covered by his sweat shirt*, and it was *behind him*. As Soderberg moved down the ravine, he could not *see his right hand*. He believed that Soderberg was *either going to hurt other officers or escape into the brush area*. Believing that Soderberg ~~was~~ still armed, he *fired*

*two rounds from his rifle at Soderberg. Soderberg then stopped moving and became limp (Lethal Use of Force).*

*According to Officer Chu, he observed Soderberg fall off the wall with what he believed to be a handgun in his right hand. Soderberg appeared to gain a foothold and have control of his movements. Soderberg was looking downwards, but at times would glance up and try to assess the position of the officers above him. He observed that Soderberg had his right hand down near his waistband, holding something by his right waistband. Believing that Soderberg was about to engage the officers, he fired two rounds from his rifle at Soderberg. After firing his second shot, it appeared that Soderberg collapsed and was no longer posing a threat (Lethal Use of Force).*

Contemporaneously, Officers Escamilla, Martin, and Lee had implemented a tactical plan to flank Soderberg's position in the ravine by redeploying from their position on side three of the residence, to a ridgeline on the east side of the ravine.

*According to Officer Escamilla, he observed Soderberg face down, facing in a western direction, and his knees were tucked up underneath him. His left hand was outstretched toward the top of the ravine and his right hand was underneath his body. He then heard a broadcast that the arrest team was going to start walking towards the ravine from the residence. Soderberg was moving and he could not see his right hand.*

*Based on Soderberg's previous violent-deadly behavior of him shooting at officers and the police helicopter, he believed the approaching arrest team was going to be in danger. In fear for the lives of the arrest team, he fired three times from his rifle at Soderberg. Between each shot, he did a quick assessment and did not observe Soderberg moving after his third shot (Lethal Use of Force).*

*According to Officer Martin, he observed Soderberg with his legs tucked under him, and could not see his hands. Soderberg appeared to be facing south towards the residence and he believed Soderberg still had that weapon, and observed him make a slight movement. He further believed that Soderberg was going to use his weapon to discharge at the officers at the ledge of the ravine.*

*Additionally, he observed a homeless encampment in the ravine, and heard a broadcast that Soderberg cannot be allowed to escape containment. He did not want Soderberg to get rounds off or have access to a hostage and additional weapons in the homeless encampment. So, he fired one round from his rifle at Soderberg. He then reassessed and observed Soderberg was not moving (Lethal Use of Force).*

*According to Officer Lee, he believed the team at the top of the ravine was exposed for potential gunfire. He observed that Soderberg was in a kneeling position with his left arm extended out in a shooting position, and his right arm underneath his chest. He believed Soderberg was possibly manipulating a weapon with his right hand. He also perceived a deadly threat and based on the totality of the circumstances, he believed Soderberg was going to shoot at his teammates.*

According to Officer Lee, he *felt* that he *had to take action to preserve the life of his partners* and fired one round from his rifle at Soderberg, then reassessed. Soderberg was *still in that shooting position*. So he fired two additional rounds from his rifle at Soderberg, *assessing* between each round. After his third round, he believed *the team knew where* Soderberg was located, and that *they were set up behind cover*. Therefore, he did not fire anymore rounds at Soderberg (Lethal Use of Force).

According to Sergeant Weaver, after he heard the final OIS, he directed officers to hold their positions, and designated lethal and less-lethal cover officers to avoid crossfire. He designated Officer Samuelson as lethal cover and Officer Grasso as less-lethal cover. He looked down the hill and observed Soderberg *30 to 40 feet down in the ravine in a fetal position, and not moving*. However, he was worried that Soderberg may be *playing possum* because he had done so *twice* before.

He did not want any officers to approach Soderberg, and developed a tactical plan to use less-lethal munitions to verify if Soderberg was able to move. He directed the officers to *hold* because *less-lethal* was going to be deployed on Soderberg. He then directed Officer Grasso to fire *four* Sage Impact Rounds with the 37mm launcher.

According to Officer Grasso, Sergeant Weaver advised the officers on containment that *less-lethal ammunition* would be used to *see if* Soderberg *would react*. She then *proceeded to fire four rounds*, striking Soderberg *on the left side of his torso* and did not observe *any reaction* by Soderberg (Less-Lethal Use of Force).

According to Sergeant Weaver, based on Soderberg's previous actions, he did not want to send officers down to his location yet. So, he requested that a K-9 be used to *latch onto* Soderberg to *roll him over to expose his hands* and Lieutenant Lopez approved the K-9 request (Deployment of K-9).

According to Officer Peters, he used K-9 Eros, Serial No. K9-241 on a *long-line*, and deployed down into the ravine. Sergeant McDonald assisted him by maintaining control of the long-line. Soderberg was in a position where he *couldn't really see his hands*, so he directed K-9 Eros to take a *bite hold* to *manipulate* Soderberg to move him so his hands were *exposed*. He observed K-9 Eros with a *bite hold, pulling* Soderberg and that there was no response from Soderberg, and then SWAT officers advised, *we got him*. He then recalled K-9 Eros to his side (Contact of K-9).

The arrest team approached Soderberg and took Soderberg into custody without further incident. Los Angeles Fire Department (LAFD), Tactical Emergency Medical Service (TEMS) personnel responded to render aid to Soderberg. They conducted an assessment and pronounced Soderberg dead at the scene (Post K-9 Contact Procedures).

According to Lieutenant Lopez, after the tactical portion of the incident concluded, he ensured that all involved personnel were separated, monitored, and that Public Safety Statements (PSS) were obtained. He also ensured the proper protocols were followed to preserve the security of the scene until the arrival of FID.

## **FINDINGS**

**Tactics** – Tactical Debrief, Commanders Chamberlain and Zarcone, Captain Eskridge, Lieutenant Lopez, and Sergeants McDonald and Weaver along with Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Goosby, Grasso, Keortge, Lee, Malachi, Martin, Messenger, Peters, Pultz, Rios, Samuelson, and Swanson.

**Drawing/Exhibiting** – In Policy, No Further Action, Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Grasso, Goosby, Keortge, Lee, Martin, Messenger, Pultz, Rios, and Samuelson.

**Less-Lethal Use of Force** – In Policy, No Further Action, Officers Grasso, Rios, and Samuelson.

**Lethal Use of Force** – In Policy, No Further Action, Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Goosby, Keortge, Lee, Martin, Messenger, Pultz, and Rios.

**Deployment of K-9** – Consistent with established criteria.

**Contact of K-9** – Consistent with established criteria.

**Post K-9 Contact Procedures** – Consistent with established criteria.

## **ANALYSIS<sup>2</sup>**

### **Detention**

SWAT officers were requested to respond to Foothill Patrol Division for a barricaded suspect with access to multiple firearms and ammunition. The officers' actions were appropriate and within Department policies and procedures.

### **Tactics**

*Department policy relative to Tactical Debriefs is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance" (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

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<sup>2</sup> The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.



### Tactical De-Escalation

*Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques).*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, SWAT CNT attempted to establish a line of communication with the suspect by calling a cellular telephone located inside of the residence. The suspect did not answer, and an ICOR robot was deployed in an attempt to establish a subsequent line of communication. As officers attempted to speak with the suspect, the suspect shot in the direction of the robot. The suspect became an active shooter and it was no longer feasible to continue with de-escalation efforts.

During the incident, the suspect presented the officers with an imminent threat of serious bodily injury or death, and the officers utilized lethal force to stop the deadly threat.

During the review of the incident, the following Debriefing Topics were noted:

#### **Debriefing Point No. 1      Crossfire**

*Does the surrounding area provide a clear background/foreground? Officers must be aware of where the bullet will go and where it may stop. Officers should not fire under conditions that would subject bystanders to death or possible injury, except in Imminent Defense of Life or to prevent serious bodily injury (Standardized Roll Call Training Program, Deployment Period No. 8/2007).*

Officers on containment were placed in a position of cover at the one-two corner of the residence as well as the two-three corner, to provide soft containment on side two of the residence. The officers' locations potentially placed them in each other's line of fire.

In this case, the officers communicated their positions to each other and formulated a tactical plan, assigning areas of responsibility to ensure that crossfire issues were minimized. However, the investigation revealed a possible bullet hole through the wood shed that officers were using for cover on the two-three corner of the residence. The investigation could not determine who potentially fired the round or when the possible round was fired.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that the officers' actions were consistent with approved Department tactical training. However, in an effort to enhance future tactical performance, I will direct this be a topic of discussion during the Tactical Debrief.

## **Debriefing Point No. 2      Tactical Planning and Communication**

*Officers are trained to work together and function as a team. In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves advising the primary officer of any critical occurrences or safety issues (California Commission on Peace Officers Standards and Training Learning, Domain No. 22).*

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

Operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner. Officers when faced with an ongoing tactical situation must remain alert to improve their overall safety, by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, the UOFRB discussed that while SWAT personnel developed a tactical plan involving tear gas and sting grenades, to get the suspect to exit the residence, a specific plan was not formulated to take the suspect into custody once he exited.

Additionally, multiple SWAT radio communications discussed Rules of Engagement and stated the suspect cannot escape containment. However, the specific rules of engagement were not articulated. In addition, the means by which to prevent escape or the actions to take should the suspect make such an attempt were not specifically discussed.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that SWAT personnel's actions were consistent with approved Department tactical training. However, in an effort to enhance future tactical performance, I will direct that this be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Situational Awareness** – The investigation revealed the Officer Goosby struck the Bearcat with rounds while firing at the suspect. Officer Goosby is to be reminded to be aware of the optical offset prior to engaging a suspect that is presenting an imminent threat of death or serious bodily injury. I will direct that this be a topic of discussion during the Tactical Debrief.

**Designated Cover Officers (DCOs)** – The investigation revealed that there were multiple DCOs at each containment position during this incident. Captain J. Tippet, Serial No. 26086, Commanding Officer, Metropolitan Division, advised the UOFRB that he would prefer that a primary DCO be designated for each team of officers, not to preclude additional officers from

using lethal force if needed. I will direct that this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

Captain Eskridge assumed the role of IC upon his arrival. He approved the deployment of APS and supervised SWAT tactics in conjunction with Commander Zarcone.

Commander Zarcone, acting as the Commanding Officer of CTSOB, approved the deployment of APS in conjunction with Captain Eskridge.

Sergeant Weaver directed SWAT tactics at the suspect's location.

Lieutenant Lopez advised and approved of SWAT tactics and acted as a liaison between SWAT personnel and the IC.

The actions of these supervisors were consistent with Department supervisory training and met my expectations of field supervisors during a critical incident.

### **Tactical Debrief**

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, I will direct that Commanders Chamberlain and Zarcone, Captain Eskridge, Lieutenant Lopez, and Sergeants McDonald and Weaver along with Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Goosby, Grasso, Keortge, Lee, Malachi, Martin, Messenger, Peters, Pultz, Rios, Samuelson, and Swanson attend a Tactical Debrief and that the specific identified topics are discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

### **General Training Update (GTU)**

On May 16, 2017, Sergeant Weaver along with Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Goosby, Grasso, Keortge, Lee, Martin, Messenger, Peters, Pultz, Rios, and Samuelson attended a GTU. All mandatory topics were covered, including Mentally Ill Persons and Force Option Simulator.

### **Drawing/Exhibiting**

*Department policy relative to drawing and exhibiting a firearm is: "An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified" (Los Angeles Police Department Manual, Volume 1, Section 556.80).*

After Soderberg was determined to be an armed barricaded suspect, SWAT personnel responded and relieved Foothill Division personnel. As SWAT Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Grasso, Goosby, Keortge, Lee, Martin, Messenger, Pultz, Rios, and Samuelson assumed their positions at the location, they drew/exhibited their respective weapon systems.

Based on the totality of the circumstances, I have determined that an officer with similar training and experience as Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Grasso, Goosby, Lee, Keortge, Martin, Messenger, Pultz, Rios, and Samuelson while faced with similar circumstances, would reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Grasso, Goosby, Keortge, Lee, Martin, Messenger, Pultz, Rios, and Samuelson's Drawing/Exhibiting to be In-Policy, No Further Action.

**Note:** In addition to the above listed employees, there were additional personnel that either drew or exhibited firearms during the incident. This Drawing/Exhibiting was appropriate and requires no specific findings or action in regard to these officers.

### **Less-Lethal Use of Force**

*It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section 556.10).*



*The sock round is an impact munition that may be deployed on suspects who are violent or who pose a threat to themselves or others, when an officer believes,*

- *Attempts to subdue the suspect with other tactics have been, or will likely be, ineffective in the situation; or*
- *There is a reasonable belief that it will be unsafe for officers to approach within contact range of the suspect (Los Angeles Police Department Use of Force – Tactics Directive No. 6.2, Beanbag Shotgun – March 2013).*

**Officer Grasso** – 37mm Launcher, four Sage Impact Rounds in a northerly direction from an approximate distance of 30 to 40 feet.

According to Officer Grasso, Sergeant Weaver advised the officers on containment that less-lethal ammunition would be used to see if Soderberg would react. She fired four sage rounds at Soderberg, striking him on the left side of his torso.

Officer Grasso recalled,

*And I then proceeded to fire four rounds, hitting - - hitting the suspect on the left side of his torso, and I did not observe any reaction by the suspect.<sup>3</sup>*

When asked by FID why she fired four rounds, Officer Grasso recalled,

*You know, I - - I can't really answer that, other than each time I fired, I - - in my mind, I was thinking he might react. I just wanted to be a hundred percent sure before any of us put ourselves in harm's way. And in my mind, that was the best way and the safest way to do it. So I fired four and then Sergeant Weaver said, you know, we're good. It doesn't look as if he's responding to being hit by the 37s.<sup>4</sup>*

**Officer Rios** – Stinger Grenade

According to Officer Rios, a tactical plan was developed to approach Soderberg's location and deploy a stinger grenade to see if Soderberg can get up or move. He deployed the stinger grenade and then walked back to cover.

Officer Rios recalled,

*So at that time a plan was made to approach - - approach where the suspect was at with the shield, with lethal cover, less lethal cover and I was going to deploy the Stinger grenade... So maybe - - it's like - - it's basically a device to, you know, see if the guy, you know, can get up, if he can move, if he was playing possum. If that would get him to, you know, to give up or,*

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<sup>3</sup> Officer Grasso, Page 26, lines 9-11.

<sup>4</sup> Officer Grasso, Page 43, lines 1-8.

*you know, anything like that. So we moved up. I threw the flash bang in the room and we came back, walked back to cover. The Stinger grenade went off, really with no effect.<sup>5</sup>*

#### **Officer Samuelson – Stinger Grenade**

According to Officer Samuelson, a tactical plan was formulated to break out the window, deploy a stinger grenade, and to introduce hot gas into Soderberg's location. He entered the residence and was assigned to deploy the stinger grenade. Officer Corbett threw the cast iron skillet lid through the window. He then deployed the stinger grenade while Officer Rios deployed the hot gas through the window.

Officer Samuelson recalled,

*So, at that point, we just found something heavy in the kitchen area, and Officer Corbett threw a cast iron skillet lid through the window which gave us a big enough hole in the window, and then, at that point, I deployed a Stingball grenade in the area where the suspect was down at the same time Officer Rios deployed the TomaHawk gas delivery system in the patio area.<sup>6</sup>*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Grasso, Rios, and Samuelson, while faced with similar circumstances, would believe that this same application of less-lethal force would be reasonable to effect Soderberg's arrest.

Therefore, I find Officers Grasso, Rios, and Samuelson's Less-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.

#### **Lethal Use of Force**

*Law enforcement officers are authorized to use deadly force to:*

- *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
- *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
- *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

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<sup>5</sup> Officer Rios, Page 17, lines 8-21.

<sup>6</sup> Officer Samuelson, Page 13, lines 6-13.

**Officer Bodell** – 5.56 caliber, semiautomatic rifle, two rounds in an easterly direction from an approximate distance 50 feet.

According to Officer Bodell, after the stinger grenade and hot gas were deployed, he observed Soderberg jump out of the opening to the covered patio area. Soderberg landed with his right arm underneath his shirt and his waistband, as if he was holding a pistol. Soderberg was on his knees with his left hand on the ground.

Soderberg then turned towards him and Officer Keortge, brought his hand from underneath his waistband and was holding a dark object in a pistol grip. Soderberg then turned his left shoulder toward him and Officer Keortge. Fearing for his life and the lives of his partners, he fired two rounds from his rifle at Soderberg.

Officer Bodell recalled,

*And then 10-David also put out over the radio, "We cannot let this individual get to another structure or escape containment." <sup>7</sup>*

*They were able to deliver that - - the stinger and the hot gas. And after the hot gas went off, the su - - I could immediately hear the suspect yelling, like, unintelligibly, and he suddenly almost, like, jumped out of the opening to that covered patio area, and again, landed with his right arm, like, underneath his shirt and his waistband, as if he was holding a pistol, and landed on his knees and his - - and his left - - left arm. So as he did that, he turned toward us and he brought his hand from underneath his waistband and he had it - - his hand, like, in a pistol grip, holding a dark object, and he turned his left shoulder upward and toward us. And at that point, I - - fearing for my life and the lives of my partners that were behind me and the other officers on containment, I fired my weapon two times at the suspect's left upper torso. <sup>8</sup>*

**Officer Chu** – 5.56 caliber, semiautomatic rifle, two rounds in a southerly direction from an approximate distance of 567 feet.

According to Officer Chu, he observed Soderberg fall off the wall with what he believed to be a handgun in his right hand. Soderberg appeared to gain a foothold and was in control of his movements. Soderberg was looking downwards, but at times would glance up and try to assess the position of the officers above him. He observed that Soderberg had his right hand down near his waistband, holding something by his right waistband. Believing that Soderberg was about to engage the officers, he fired two rounds from his rifle at Soderberg.

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<sup>7</sup> Officer Bodell, Page 19, lines 23-25.

<sup>8</sup> Officer Bodell, Page 20, lines 8-22.

Officer Chu recalled,

*And I actually remember 10-David, Lieutenant Lopez at one point actually on the air stating that we – we could not let the suspect escape this containment situation.<sup>9</sup>*

*He was looking not only downward, but at times would glance up and try to assess position of the officers above him, in my opinion. And he had his right hand down near his waistband holding - - I couldn't see at that point what the object was because the movement was so fast, but he appeared to be holding something by his right waistband.*

*And at the time he had fallen off the wall, I saw what I believed to be a handgun in his right hand. And I assumed that to be the same object he was still attempting to hold on his way down, making his way down the terrain.<sup>10</sup>*

*And, you know, it was in my estimation or opinion that he was assessing the position of the folks above him, and he was moving and turning so rapidly, I felt like at any moment, he was about to engage the officers again with the object I believe he was holding in his hand. I placed the dot right on him, on the center body mass at him - - on him when I chose to make my first shot and second shot. And again, once the second shot was fired, they were almost successive. I wouldn't call it an accelerated pair, but it was pretty close. Once my second shot was fired, it appeared to me like he - - he collapsed and went down, and he was no longer posing a threat. So I assessed and placed my weapon on safe.<sup>11</sup>*

**Officer Escamilla** – 5.56 caliber, semiautomatic rifle, three rounds in a southwesterly direction from an approximate distance of 167 feet.

According to Officer Escamilla, he observed Soderberg face down, facing in a western direction, with his knees tucked up underneath him. His left hand was outstretched toward the top of the ravine and his right hand was underneath his body. He heard a broadcast that the arrest team was going to start walking towards the ravine from the residence. Soderberg began moving and Officer Escamilla could not see his right hand.

Based on Soderberg's previous violent-deadly behavior of him shooting at officers and the police helicopter, he believed the approaching arrest team was going to be in danger. In fear for the lives of the arrest team, he fired three times from his rifle at Soderberg. Between each shot, he did a quick assessment and did not observe Soderberg moving after his third shot.

Officer Escamilla recalled,

*As I looked down, I could see the suspect, he was face down, he was facing in a western direction, and it looked like his knees were kind of tucked up underneath him, and he was either sitting on his knees or he was kind of like in a praying sort of position. His left hand*

<sup>9</sup> Officer Chu, Page 14, Lines 19-21

<sup>10</sup> Officer Chu, Page 25, lines 17-25, Page 26, lines 1-3.

<sup>11</sup> Officer Chu, Page 26, lines 23-25, Page 27, lines 1-15.



*was outstretched kind of towards the direction - - up towards the direction of the building and his right hand was underneath his body.<sup>12</sup>*

*As that happened, the arrest team made notification that they were going to start walking - - making their way towards where the suspect had gone down the ravine. I saw the suspect move, and it appeared that he was dipping his - - it almost looked he was going to roll over basically. I couldn't see because of the vegetation anything in his - - if he had anything in his left hand. And I couldn't see his right hand because it was tucked up underneath him.*

*Based on my training and experience, the suspect's violent-deadly behavior that he exhibited beforehand, that he had fired at officers before, he also had fired at the police helicopter and was willing to shoot at police officers, and knowing the arrest team as going to be in danger, I fired at the suspect in fear for their lives as they came up. I fired three times, each time in between, I do give a quick assessment, and at which point after my third shot, the suspect was no longer moving.<sup>13</sup>*

**Officer Flores** – 5.56 caliber, semiautomatic rifle, two rounds in a southerly direction from an approximate distance of 567 feet.

According to Officer Flores, he observed Soderberg jump off the wall into the ravine. His right hand was covered by his sweat shirt, and it was behind him. As Soderberg moved down the ravine, he could not see his right hand. He believed that Soderberg was either going to hurt other officers or escape into the brush area. Believing that Soderberg was still armed, he fired two rounds from his rifle at Soderberg. Soderberg then stopped moving and became limp.

Officer Flores recalled,

*So as he jumps down, I see that - - I still can't see his hand. It looks like he's sliding down the hill and his right hand behind him. I made a determination that he's either going to hurt other officers or escape into that brush area I told you about. Either - - and like I said, injuring other off - - SWAT officers or if he got into that brush area then he would be injuring us. I believe he was still armed. So I fire two rounds, center mass, from I believe it was like 150 to 200 yards away with my rifle. He - - it looked like he - - he stopped moving, like he just became limp, and fell behind some shrubbery.<sup>14</sup>*

**Officer Fritz** – 5.56 caliber, semiautomatic rifle, three rounds in two sequences of fire, in a southerly direction from an approximate distance of 567 feet.

#### First Sequence

According to Officer Fritz, he observed Soderberg sliding down but looking back at the officers that were above him and feared another engagement was going to occur because he observed

<sup>12</sup> Officer Escamilla, Page 10, lines 18-25.

<sup>13</sup> Officer Escamilla, Page 11, lines 1-19.

<sup>14</sup> Officer Flores, Page 18, lines 4-16.

what he believed to be a gun in his hand. He was concerned that if Soderberg got further down into the ravine, they may lose sight of him and he believed Soderberg posed an immediate threat to anybody who would have to apprehend him, or that he could escape and get back into the community and put other people in danger. He then fired one round from his rifle at Soderberg and reassessed.

Officer Fritz recalled,

*Believing that the suspect was going to reengage those officers, and believing that if he got into that ravine and immediately out of sight because of ravine was so heavy - - heavily covered with trees and shrubs that he was going to pose an immediate threat to anybody, other officers that were going to still have to go down and - - and apprehend him.*

*Or because we didn't have a hard containment, it was only a visual containment, that he would be able to escape and then somehow get back into the community and put other people in danger. At that point, I decided to use lethal force...And I fired one round.<sup>15</sup>*

#### Second/Third Sequence

He observed that Soderberg had *switched his stance* and then observed Soderberg's *hand come around* and *it still looked like he had something in his hand*, which he believed to be a *firearm*. He then *fired a second round* from his rifle at Soderberg.

He observed that Soderberg continued down into the ravine, approaching the thick shrubbery. He was about to lose visual of Soderberg. He believed that Soderberg was still a threat to the officers above, as well as the officers down below if he got into that shrubbery. He then fired a third round from his rifle at Soderberg.

Officer Fritz recalled,

*At that point, I - - I could see that his hand came around. And it still looked like he had something in his hand. And believing that he still - - still had the firearm from before, I fired a second round, again, not knowing if I hit him. And he continued - - and at this point, he was getting into what looked like thick shrubbery to me.*

*I - - I was about to lose visual on him. And since he wasn't down, he still a threat to the officers above, as well as the officers down below if he gets into that shrubbery, I fired a third round. However, at pretty much simultaneously as I fired my third round, I observed him slump forward head first and then begin to tumble.<sup>16</sup>*

**Officer Gallegos** – 5.56 caliber, semiautomatic rifle, 14 rounds in two sequences of fire, in a downward direction from an approximate distance of 225 to 255 feet.

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<sup>15</sup> Officer Fritz, Page 19, lines 4-18.

<sup>16</sup> Officer Fritz, Page 20, lines 1-14.

### First Sequence

According to Officer Gallegos, he heard a broadcast that Soderberg was exiting the residence with a gun in his hand. The APS was only a hundred yards away, launched again and orbited over the residence. During the second orbit around the residence, he observed Soderberg appear from under the trees with a gun in his right hand.

Soderberg was moving with some purpose from side two toward side three of the residence and he believed that he was trying to maneuver to shoot at the officers that were positioned on side three. At the same time, Soderberg was looking toward the APS with the pistol in his right hand. Having heard a previous broadcast that Soderberg had fired at the helicopter, he fired his rifle at Soderberg.

Officer Gallegos recalled,

*So when I see him come out from under the trees, I see a pistol in his hand, and based on all the circumstances and his movements, because he's moving - - he's not moving very deliberate. He's moving with some purpose. I know I can see our guys on the three side. I - - I believe he was trying to maneuver to try to get rounds on - - on them, and then at the same time, looking at us in our direction with the pistol in his right hand. Based off of that, I - - my observation, the prior he's shooting at the helicopter, the - - the brace kneel inside the doorway, the pistol in his hand, and - - and his aggressive behavior, I then, I then engaged the suspect at that point.<sup>17</sup>*

### Second Sequence

According to Officer Gallegos, due to the APS moving, he lost sight of Soderberg. He stopped firing, and the APS came back on a tighter rotation and he was looking almost straight down. He observed Soderberg sitting down in an under construction possible garage area without a door. Soderberg raised his right hand with a gun, aiming up at the APS. He then fired his rifle at Soderberg again.

Officer Gallegos recalled,

*As we come up on a tighter rotation, I'm looking almost straight down and I see the suspect. He's sitting down in it looked like a makeshift, like - - like it was under construction. Maybe like a garage area. And it had no door, and it had a hole when the all right next to the door where the door was supposed to be.*

*So he's kind up upright or sitting in a sitting position. And his - - I see his right hand, and I see - - I see a gun in his right hand aiming up at us as we were doing our rotation. As that*

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<sup>17</sup> Officer Gallegos, Page 16, lines 1-13.

*happens, I then engage the suspect again. And I engage the suspect. And then shortly after that, again, the trees got in the way.<sup>18</sup>*

**Officer Goosby** – 5.56 caliber, semiautomatic rifle, six rounds in two sequences of fire, in a northeasterly direction from an approximate distance of 30 feet.

#### First Sequence

According to Officer Goosby, he heard a broadcast that Soderberg was on side two walking toward side one with a gun. He was assigned as a cover officer on side one and was using the Bearcat as cover. He directed his attention to the one-two corner of the residence and observed Soderberg turn the corner. He then observed that Soderberg was holding a blue steel handgun in his right hand, and was facing him with his hand extending out. To prevent serious bodily injury to himself and the other officers, he fired two to three rounds from his rifle at Soderberg.

Officer Goosby recalled,

*When I first see him, he kind of snaps a corner, and I could see - - I could see from pretty much the teleplex is up, and I could see a gun in his right hand, a blue steel handgun, his right hand, and now he's facing me, kind of taking a barricade position from the corner, and his - - his hand is extending out. So to prevent serious bodily injury to myself and everybody else around us, I felt that it was an imminent threat, I fired rounds at the suspect.<sup>19</sup>*

#### Second Sequence

According to Officer Goosby, after firing his first rounds, Soderberg stepped back and out of his view. He then moved slightly to his right and observed that Soderberg was doing the same thing and fired at least one round at him. He returned fire and then Soderberg stepped back out of view.

Officer Goosby recalled,

*He quickly went back out of my view and so I - - I slightly - - I just slightly moved to my right to get a better angle on him, and he appeared back out doing the same thing, and actually - - actually started fire, and so I returned fire and he was back out of my view.<sup>20</sup>*

**Officer Keortge** – 5.56 caliber, semiautomatic rifle, one round in an easterly direction from an approximate distance of 50 feet.

According to Officer Keortge, he was assigned as a lethal cover officer with Officer Bodell in the breezeway of the detached garage located at the one-two corner of the residence. After the

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<sup>18</sup> Officer Gallegos, Page 16, lines 21-25, Page 17, lines 1-9.

<sup>19</sup> Officer Goosby, Page 14, lines 11-20.

<sup>20</sup> Officer Goosby, Page 14, lines 20-25.



sting grenade and hot gas were deployed through the window of the residence, Soderberg came out onto the sidewalk and looked in his direction.

He observed that Soderberg had a tight fist with his right hand and put his left hand down on the concrete. Soderberg then rolled toward him and Officer Bodell. He then observed the barrel of a gun and fired one round from his rifle at Soderberg.

Officer Keortge recalled,

*And as he was coming out toward the sidewalk, he looked in my direction and he continued to have that - - that tight fist with his right hand, and he placed his left hand on the - - the cement or concrete and rolled in - - in my direction and my partner's direction, and I saw the barrel of a gun, and that's when I engaged. I fired one round in his direction...and he rolled himself up and over the edge of the bank onto the hillside out of my view.<sup>21</sup>*

**Officer Lee** – 5.56 caliber, semiautomatic rifle, three rounds in a southwesterly direction from an approximate distance of 168 feet.

According to Officer Lee, he believed the team at the top of the ravine was exposed for potential gunfire. He observed that Soderberg was in a kneeling position with his left arm extended out in a shooting position, with his right arm underneath his chest and he believed that Soderberg was possibly manipulating a weapon with his right hand. Based on the totality of the circumstances, he believed Soderberg was going to shoot at his teammates.

He felt that he had to take action to preserve the life of his partners and fired one round from his rifle at Soderberg, then reassessed. Soderberg was still in that shooting position. So, he fired two additional rounds from his rifle at Soderberg, assessing between each round. After his third round, he believed the team knew where Soderberg was located, and that they were set up behind cover.

Officer Lee recalled,

*When I saw him on the - - as soon as I landed on the ridge, he was in a kneeling position again, and his left arm was extended out in a shooting position, and his right arm was underneath his chest, but there was a gap of - - of brush or what I perceived to be the ground in which he could easily be manipulating a weapon from my vantage point. In addition to that, the team was exposed, and as soon as I got into what I believe was a kneeling position, I perceived a deadly threat, and that deadly threat was in a total accumulation - - totality of the circumstances that this guy was going to shoot at my teammates who did not know where he was at.*

*I felt like I was at a critical moment where I had to take action to preserve the life of my partners or prevent from serious - - serious bodily injury from an individual who exhibited*

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<sup>21</sup> Officer Keortge, Page 12, lines 15-25, Page 13, lines 1-2.

*all signs of wanting to take this to - - to the end. And I focused my sights, and I deployed one round from my - - my rifle, assessed he was still in that shooting position. I fired again believing that he was going to fire a second time, assessing between each position, each shot, and deployed another round the third time. And at this time, after that last assessment, myself, I believe that the team knew where he was at, and now they were set up behind cover, and that was the end of my three shots that I fired in defense of my teammates' lives.<sup>22</sup>*

**Officer Martin** – 5.56 caliber, semiautomatic rifle, one round in a southwesterly direction from an approximate distance of 167 feet.

According to Officer Martin, he observed Soderberg with his legs tucked under him, and could not see his hands. Soderberg appeared to be facing south towards the residence and he believed Soderberg still had that weapon, and observed him make a slight movement. He further believed that Soderberg was going to use his weapon to discharge at the officers at the ledge of the ravine.

Additionally, he observed a homeless encampment in the ravine, and had heard a broadcast that Soderberg cannot be allowed to escape containment. He did not want Soderberg to get rounds off or have access to a hostage and additional weapons in the homeless encampment. So, he fired one round from his rifle at Soderberg.

Officer Martin recalled,

*Eventually, I got to my resting point where I could see the suspect, and at that point, he was - - his legs were kind of tucked under him, he was in an almost like a fetal-type position. I couldn't see his hands, but he had a dark sweatshirt on, and his - - his head, I couldn't tell, but it appeared that it was facing - - just from the layout of the body, it was facing south towards - - kind of towards the residence.*

*Believing that he still had that weapon...I believe that he was going to use his weapon to discharge at the officers on that - - on the property grounds that were at the ledge, so I fired one round. I reassessed, and the suspect was not moving, and that was the end of my involvement in terms of shooting.*

*Also, as I'm traversing prior to the shooting, what I do notice is I do notice that half way or ¾ of the way down the hill, there looks to be some sort of homeless encampment. I know they put out over the air, "Do not let this suspect escape containment." Plus, I see that, and in my mind, I believe that there's somebody or could be somebody in that little encampment that is down - - ¾ of the way down that ravine, and that's another reason that I - - I didn't want to let any movement, I didn't want to let - - let the suspect either get rounds off first and foremost, but also to get up and roll down and possibly have access to a hostage - - additional weapons, I don't know what's in that - - in that encampment. So, I fired the one round, reassessed, suspect wasn't moving, held cover on him...<sup>23</sup>*

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<sup>22</sup> Officer Lee, Page 26, lines 6-25, Page 27, lines 1-5.

<sup>23</sup> Officer Martine, Page 16, lines 3-25, Page 17, lines 1-18.

**Officer Messenger** – 5.56 caliber, semiautomatic rifle, one round in a downward direction from an approximate distance of 225 to 300 feet.

According to Officer Messenger, as the piolet continued to round in that orbit and he observed Soderberg seated near that open doorway looking toward the helicopter with his hand down to his sides. Soderberg then reached behind him and appeared to have something dark in his hand. As Soderberg arm started to come up, he fired one round from his rifle at Soderberg in immediate defense of his life, as well as those on the aircraft.

Officer Messenger recalled,

*We continued to round in that orbit. As we came back to roughly that same location, transitioning from the - - the two-three corner again, now I see the suspect, and he's seated near that open doorway that I'm talking about. He's looking in our direction. His hands are down to his side, and he kind of reaches behind him again.*

*It appears he's got something dark in his hand and he starts to come up. I fired one round from my rifle in immediate defense of my life, as well as those on the aircraft. And - - and also, Officer Gallegos engaged the suspect again. I believe he fired again five to seven rounds.<sup>24</sup>*

**Officer Pultz** – 5.56 caliber, semiautomatic rifle, four rounds in an easterly direction from an approximate distance of 40 feet.

According to Officer Pultz, after Soderberg went back inside the residence, additional tear gas was deployed. He was advised that Soderberg was observed via the scout robot, exiting the kitchen door on side two of the residence with something in his right hand. He had his gas mask on and was viewing through the haze of the gas when he observed Soderberg step into view.

He told Soderberg, Hey, let me see your hands. Soderberg turned towards him and Officer Rios' direction. Soderberg's feet were facing towards side three, with his upper body turning towards Officer Pultz, with his arm extended out with a dark object in his right hand that he believed was a gun. He believed that Soderberg was going to engage himself and Officer Rios. In fear for his life, he fired two rounds from his rifle at Soderberg.

Officer Pultz recalled,

*So as I stated, being in that location and listening to the gunfire occurring between the suspect and other officers on the perimeter. I knew this individual was intent on fighting it out. When he stepped out, and - - and I'm - - and also seeing him on camera armed and in the agitated state of mind he was and his aggressive manner, I had formed the opinion that this guy was going to fight it out to the death. When he stepped out onto the patio and was*

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<sup>24</sup> Officer Messenger, Page 13, lines 23-25, Page 14, lines 1-10.

*within my view, he looked in my direction with his arm extended, pointed at me, appearing to want to fight and flee.*

*And I was afraid at that time that he was going to start to discharge rounds on myself and the officers around me, and that one of us was going to be either fatally struck or hurt pretty bad. The other concern in my mind was he was going to break this perimeter and continue his crime spree on other innocent victims. And at that point, I made the decision in my mind to utilize deadly force and stop that threat from occurring.<sup>25</sup>*

**Officer Rios** – 5.56 caliber, semiautomatic rifle, two rounds in an easterly direction from an approximate distance of 40 feet.

According to Officer Rios, he was advised Soderberg was running out of the residence, holding his waistband on the right with a dark object. Soderberg ran out into the middle of the courtyard by some furniture on side two of the residence and came into his view. He observed Soderberg turn to his right toward him and Officer Pultz. It appeared that he was holding a dark object in his right hand. Believing that Soderberg was armed, he fired several rounds from his rifle at Soderberg.

Officer Rios recalled,

*The suspect ran out into the middle of the courtyard where the couches were and he came into our view and at that time he turned to his right and it appeared that he was holding a dark object in his right hand and pretty much simultaneously, Pultz and I fired several rounds at him. The suspect - - I saw the suspect fall. The suspect fell on the sidewalk and appeared to be like crawling, crawling and he kind of positioned himself against the wall.<sup>26</sup>*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Goosby, Keortge, Lee, Martin, Messenger, Pultz, and Rios, would reasonably believe Soderberg's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

Therefore, I find Officers Bodell, Chu, Escamilla, Flores, Fritz, Gallegos, Goosby, Keortge, Lee, Martin, Messenger, Pultz, and Rios' Use of Lethal Force to be In Policy, No Further Action.

### **Deployment of K-9**

*Department K-9s have proven to be invaluable in Department operations. Department K-9s may be used to assist officers in the performance of their duties where such assistance is beneficial to Department operations and to community welfare. When a police service dog is*

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<sup>25</sup> Officer Pultz, Page 60, lines 14-25, Page 61, lines 1-8.

<sup>26</sup> Officer Rios, Page 15, lines 21-25, Page 16, lines 1-4.

*deployed, the dog handler shall have sole responsibility for the control and direction of the dog.*

*Consistent with Department Manual, Volume 1, Section 571, Department K-9s may be used in the following circumstances:*

- *In the detection, control, and apprehension of a suspect when there is a reasonable suspicion of the suspect's involvement in criminal activity;*
- *In the search of buildings and large areas for suspects;*
- *In the investigation of a crime or possible crime;*
- *In searches for narcotics and/or narcotic paraphernalia;*
- *In searches for explosives and/or explosive devices; or,*
- *In criminal and non-criminal incidents to assist in the search for missing juveniles or adults.*

*At the start of a K-9 search, the K-9 officer directing the search shall give or cause to be given a K-9 announcement and warning that a K-9 will be deployed. In those situations, where noise or perimeter size is a factor, consideration should be given to the use of a vehicle or helicopter public address system (K-9 Manual, Los Angeles Police Department, Metropolitan Division, 2011).*

According to Officer Peters, after Soderberg was in the ravine and not moving, less-lethal munitions were used in an attempt to illicit movement from Soderberg. Soderberg did not move; however, the officers could not see his hands. A tactical plan was formulated to use a K9 to conduct a directed deployment to roll Soderberg over to see his hands. At the direction of Sergeant Weaver, he utilized K9 Eros to conduct a directed deployment.

I have determined that the deployment of the K-9 resources was consistent with established criteria.

### **Contact of K-9**

*The use of a K-9 is a valuable tool in the detection of suspects, and generally not an apprehension tool. When a K-9 contact occurs the K-9 team will be evaluated on the ability to detect and the K-9 officers' ability and skill level in the management and control of his/her search team deployment.*

*LAPD Metropolitan Division K-9 Search announcement:*

*"To the person or persons who are hiding from the police. Make your location known to us immediately. Put down all weapons, come out with your hands raised, and follow directions. If you do not, a police dog will be used to find you. When the dog finds you, do not move or you may be bitten. You have one minute to surrender" (Los Angeles Police Department, Metropolitan Division, 2011).*



*A K-9 officer may direct his/her K-9 to bite a suspect and or apprehend a fleeing or otherwise evading suspect by biting when it is objectively reasonable as outlined in Use of Force Policy (K-9 Manual, Los Angeles Police Department, Metropolitan Division, 2011).*

*When a K-9 officer directs his/her K-9 to bite, K-9 officers shall make a reasonable effort to verbally warn the suspect that a dog will be released. The directed bite warning does not have to be given when the officer or another is being attacked, or the suspect assaults the K-9 and the bite is reactive/defensive, or when other exigent circumstance exists (K-9 Manual, Los Angeles Police Department, Metropolitan Division, 2011).*

According to Officer Peters, he used a long-line and directed K9 Eros to contact Soderberg. It appeared that K9 Eros took a bite hold on Soderberg's left arm or shoulder, and pulled him to the side, revealing his hands. He then observed SWAT officers approaching Soderberg to take him into custody and recalled K9 Eros to his side.

**Note:** The investigation did not reveal if Officer Peters provided a directed bite warning prior to releasing K-9 Eros.

I have determined the K-9 Contact was consistent with established criteria.

#### **Post K-9 Contact Procedures**

*When a K-9 contact occurs and the subject of the contact is hospitalized (admitted) as a result of the contact, the incident is classified as a Categorical Use of Force incident and Force Investigation Division (FID) shall respond and conduct the investigation. When any supervisor investigating a K-9 contact becomes aware that the injury is likely to result in hospitalization, the K-9 supervisor shall make the appropriate notifications. The K-9 platoon OIC shall ensure that a K-9 supervisor is assigned to assist FID with its investigation as it relates to the K-9 related investigation (K-9 Manual, Los Angeles Police Department, Metropolitan Division, 2011).*

After the K9 contact, SWAT personnel handcuffed Soderberg and requested LAFD TEMS personnel to respond to their location. Upon arrival, LAFD TEMS personnel assessed Soderberg and pronounced him deceased.

I have determined that the Post K-9 Contact Procedures were consistent with established criteria.

#### **Audio/Video Recordings**

**Digital In-Car Video System (DICVS)/Body Worn Video (BWV)** – Metropolitan Division and Foothill Patrol Division were not equipped with DICVS at the time of this incident. Additionally, Metropolitan Division and Foothill Patrol Division personnel were not equipped with BWV at the time of this incident.

**Outside Video** – The incident was captured by multiple news helicopters which were overhead at the time of the incident.

**Chief's Direction**

The UOFRB determined, and I concur, that while Officer W. Wong, Serial No. 26014, Metropolitan Division, SWAT, did not receive formal findings, he would benefit from attending the Tactical Debrief due to his role as the Element Leader tasked with assisting Sergeant Weaver formulate and implement tactical plans throughout the incident.

Respectfully,

A handwritten signature in black ink, appearing to read 'Charlie Beck', with a stylized, looping flourish extending to the right.

CHARLIE BECK  
Chief of Police

Date: 4-26-18